

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT WHEELING**

**DIANA MEY, on behalf of herself and a
class of others similarly situated,**

Plaintiff,

v.

**MATRIX WARRANTY SOLUTIONS,
INC., et al.,**

Defendants.

Civil Action No. 5:21-CV-62 (Bailey)

**MATRIX WARRANTY SOLUTIONS, INC. AND MATRIX FINANCIAL SERVICES,
LLC’S FIRST MOTION IN LIMINE TO PRECLUDE COMMENTS CONTAINING
NEGATIVE CONNOTATIONS RELATING TO VEHICLE SERVICE CONTRACTS
AND THE VEHICLE SERVICE CONTRACT INDUSTRY**

Defendants Matrix Warranty Solutions, Inc. (“Matrix”) and Matrix Financial Services, LLC (“Matrix Financial”) (collectively, “Matrix Defendants”), by counsel and pursuant to this Court’s Amended Scheduling Order dated October 17, 2022, ECF No. 125 and Order Granting Second Joint Motion to Extend Deadlines, ECF No. 183, respectfully submit their First Motion in Limine to exclude comments containing negative connotations relating to Matrix-related vehicle service contracts specifically and the vehicle service contract industry generally, and in support state as follows:

The Matrix Defendants seek to preclude at trial any comments containing negative connotations relating to Matrix’s vehicle service contracts and/or the vehicle service contract industry. Comments already made by Plaintiff provide examples of the type of comments the Matrix Defendants seek to exclude: Plaintiff has already argued, with no factual foundation, that “there is a dark industry that preys on vulnerable Americans, duping them into spending thousands of dollars on aftermarket auto warranties of dubious value[.]” ECF No. 172 at 2; “[t]his proposed

class is comprised of individuals who . . . were actually duped into purchasing auto warranties of questionable value.” ECF No. 154 at 1. There is absolutely no evidence that the Matrix Defendants or companies selling Matrix-related vehicle service contracts prey upon vulnerable Americans, that Matrix-related vehicle service contracts are of “dubious” or “questionable” value, or that any class member was “duped into purchasing” a vehicle service contract at issue in this case.

Comments and innuendo of these types that relate to the Matrix Defendants must be excluded due to their total lack of evidentiary support. Further, such comments, and similar comments as to vehicle service contracts and the vehicle service contract industry in general, must be excluded as their sole purpose is to inflame the jury, and their probative value is substantially outweighed by the dangers of unfair prejudice to the Matrix Defendants and misleading of the jury. *See* Federal Rule of Evidence 403; *see also Pegg v. Herrnberger*, Civil Action No. 5:13CV173, 2016 U.S. Dist. LEXIS 165751, at *2-3 (N.D. W. Va. Dec. 1, 2016) (granting in part and deferring in part a motion in limine brought under Fed. R. Civ. P. 403 to exclude comments “designed to inflame the jury’s passions or to cause the jury to render a verdict based upon personal concerns outside of the evidence”).

Even if there was evidence supporting such comments, which there is not here, such evidence and related comments would be irrelevant and not admissible. *See* Fed. R. Evid. 402. This case involves alleged violation of the Telephone Consumer Protection Act based upon the receipt of calls containing prerecorded messages. Allegations relating to the value of vehicle service contracts, the preying upon vulnerable Americans by non-parties, and the duping of people into buying vehicle services contracts is entirely irrelevant to this case and whether the Matrix Defendants can be found vicariously liable for prerecorded calls allegedly made by National Auto Protection Corp. Irrelevant, inflammatory, and unproven allegations have no place in a proper

jury trial. Plaintiff and her counsel should be instructed to refrain from making any comments relating to the “value” of Matrix-related vehicle service contracts or the vehicle service contract “industry” generally.

Dated: March 31, 2023

MATRIX DEFENDANTS

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CERTIFICATE OF SERVICE

I certify that on this 31st day of March, 2023, I caused a copy of the Matrix Defendants' First Motion in Limine to be filed through the Court's electronic filing system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties listed below.

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